

FISCAL NOTE

Bill #: SB0387

Title: Conform retail telecommunication excise tax to federal mobile sourcing act

Primary Sponsor: Cobb, J

Status: As Amended in Senate Committee

Sponsor signature	Date	Chuck Swysgood, Budget Director	Date
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Fiscal Summary

FY 2004 Difference

FY 2005 Difference

Revenue:

General Fund

\$189,000

\$198,000

Net Impact on General Fund Balance:

\$189,000

\$198,000

- | | |
|---|--|
| <input type="checkbox"/> Significant Local Gov. Impact
<input type="checkbox"/> Included in the Executive Budget
<input type="checkbox"/> Dedicated Revenue Form Attached | <input checked="" type="checkbox"/> Technical Concerns
<input checked="" type="checkbox"/> Significant Long-Term Impacts
<input type="checkbox"/> Needs to be included in HB 2 |
|---|--|

Fiscal Analysis

ASSUMPTIONS:

1. This bill would change the sourcing rules for the retail telecommunications excise tax to conform to the federal Mobile Telecommunications Sourcing Act and the Streamlined Sales Tax Agreement.
2. Under current law, the retail telecommunications excise tax of 3.75% applies to charges for telecommunications services that originate or terminate in the state and are billed to a Montana address. This excludes cell phone roaming charges for calls that Montana customers make outside the state that are not to a Montana phone. In theory, it also excludes calls made in Montana but charged to the customer's credit card or home phone with an out-of-state address. In practice, these calls are being taxed, because the telecommunications company is paid by a third party, such as a credit card company, and does not know the customer's billing address.
3. The federal Mobile Telecommunications Sourcing Act went into effect August 1, 2002. It requires that mobile telecommunications services only be taxed by the state and local jurisdiction where the customer's "place of primary use" (home or business address) is located. Prior to passage of the Mobile Telecommunications Sourcing Act, most other states taxed cell phone roaming charges on calls that originated in the state, regardless of the caller's billing address. All states other than Montana have amended their telecommunications taxes so that all mobile telecommunications charges are taxed by the state where the customer's place of primary use is located.
4. By adopting the definitions and sourcing rules in the federal Mobile Telecommunications Sourcing Act, this bill would make all cell phone charges for customers whose place of primary use is in Montana subject to the retail telecommunications excise tax.
5. This bill would apply beginning with bills issued after June 30, 2003.

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6. Cell phone roaming charges that are not being taxed under current law are 0.9% of taxable telecommunications charges. Under current law, taxable telecommunications charges are projected to be \$560.013 million in fiscal 2004 and \$585.963 million in fiscal 2005. This bill would increase collections by \$189,000 in fiscal 2004 ($3.75\% \times 0.9\% \times \560.013 million) and \$198,000 in fiscal 2005 ($3.75\% \times 0.9\% \times \585.963 million).
7. This bill would not have significant administrative impacts on the Department of Revenue.

FISCAL IMPACT:

	<u>FY 2004</u>	<u>FY 2005</u>
	<u>Difference</u>	<u>Difference</u>
<u>Revenues:</u>		
General Fund (01)	\$189,000	\$198,000
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>		
General Fund (01)	\$189,000	\$198,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

No impact.

LONG-RANGE IMPACTS:

The tax changes in this bill are permanent. However, the revenue impact of this bill is likely to decrease over time. An increasing percentage of cell phone users have been choosing flat-rate service plans with no roaming charges, and this trend is expected to continue.

TECHNICAL NOTES:

1. This fiscal note assumes that cell phone roaming charges that are not taxable under current law are not being taxed. However, it is likely that the tax is being applied to some of these charges now. The mechanisms that the industry formerly used to track roaming charges and allocate taxes on them are no longer operating, and some non-taxable roaming charges probably are not being identified.